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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,396	07/19/2001	Norio Fukuda	P 027 7008 H7542US	9899
27496	7590	03/17/2004	EXAMINER	
PILLSBURY WINTHROP LLP 725 S. FIGUEROA STREET SUITE 2800 LOS ANGELES, CA 90017			SHEEHAN, JOHN P	
			ART UNIT	PAPER NUMBER
			1742	

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,396

Applicant(s)

FUKUDA ET AL.

Examiner

John P. Sheehan

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 12-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4, 12, 14, 15, 17 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 13 and 18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102/103

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 13 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over each of Yasuhiro et al. (Yashiro, Japanese Patent Document NO. 04-228545, cited by the applicants in the IDS submitted November 25, 2002) or Norio et al. (Norio, Japanese Patent Document No. 62-112759, cited by the applicants in the IDS submitted November 25, 2002).

Each of these references teaches specific examples of shadow mask materials having compositions that are encompassed by claim 13 (Yasuhiro, page 325, Table 1, Examples A, B and D to K, Table 3, Examples R to V and Norio, page 333, Table 1, Examples 1, 2, 6, 8, 11, 12, 14 to 16, 19, 20 and 24 to 26).

The references and claims differ in that the references do not teach the limitation, "the magnetostriction λ of the magnetostriction control alloy sheet after softening and annealing being between -15×10^{-6} and $+25 \times 10^{-6}$ ".

First, in view of the claim language, "the magnetostriction λ of the magnetostriction control alloy sheet after softening and annealing being between -15×10^{-6} and $+25 \times 10^{-6}$ " (emphasis added by the Examiner) and the fact that the claim does not recite that the alloy has actually been softened and annealed, claim 13 is not directed to an alloy sheet that possesses the recited magnetostriction but rather claim 13 is directed to an alloy sheet that is merely capable of possessing a magnetostriction of -15×10^{-6} and $+25 \times 10^{-6}$.

In view of this, one of ordinary skill in the art at the time the invention was made would have considered the invention to have been obvious because each of the example alloys taught by the references have compositions that are encompassed by the claims and therefore would be expected to possess all the same properties, including the capability of possessing a magnetostriction of -15×10^{-6} and $+25 \times 10^{-6}$ as recited in the instant claims, In re Best, 195 USPQ, 430 and MPEP 2112.01.

"Where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established, In re Best, 195 USPQ 430, 433 (CCPA 1977). 'When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not.' In re Spada, 15 USPQ2d 655, 1658 (Fed. Cir. 1990). Therefore, the prima facie case can be rebutted by evidence showing that the prior art products do not necessarily possess the characteristics of the claimed product. In re Best, 195 USPQ 430, 433 (CCPA 1977)." (emphasis added by the Examiner), see MPEP 2112.01.

Claim Rejections - 35 USC § 103

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over each of Yasuhiro or Norio et al. taken in view of Jeong (US Patent No. 5,276,505, cited on the PTO Form 892 attached to this Office action).

Yasuhiro and Norio teach and are applied as set forth above. It is emphasized that each of these references teaches that the disclosed alloys are used as shadow masks (see the abstract of each reference).

Jeong teaches that the color Braun tube structure recited in claim 18 is well known, see Jeong's Figure 2 and the associated description, column 2, lines 33 to 36 and column 3, lines 45 to 65).

One of ordinary skill in the art at the time the invention was made would have considered the invention to have been obvious because each of Yasuhiro and Norio disclose that the intended use of their disclosed alloy is as shadow masks. Further, the instantly claimed elements of a color Braun tube in which a shadow mask is used, as shown by Jeong, are well known.

Allowable Subject Matter


1. Claims 4, 12, 14, 15, 17 and 19 to 21 allowed.
2. The following is a statement of reasons for the indication of allowable subject matter: None of the references alone or in combination teach or suggest an alloy sheet after having been subjected to softening and annealing and wherein the {100} degree of accumulation on the rolled surface of the alloy sheet being 40 to 90%.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Sheehan whose telephone number is (571) 272-1249. The examiner can normally be reached on T-F (6:45-4:30) Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John P. Sheehan
Primary Examiner
Art Unit 1742

jps